

REMARKS/ARGUMENTS

The Office Action dated December 30, 2003 indicated that claims 1-6 stand objected to for informalities; claims 4-6 stand objected to under 37 C.F.R. §1.75(c) and claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Nolte* (5,924,859).

The claim objections should be moot because all previously pending claims have been canceled; the new claims are believed to overcome the issues raised with the objections.

Applicant respectfully traverses the Section 102 rejection because the rejection fails to convey to the Applicant the nature of (and corresponding rationale behind) the rejection in a manner that is consistent with 35 U.S.C. §132. Specifically, the Section 102 rejection references several paragraph numbers in apparent reference to the '859 reference. However, Applicant cannot ascertain which portions of the '859 reference are relied upon in the rejection because the reference is not labeled with any paragraph numbers. In this regard, the rejection failed to afford the Applicant the opportunity to judge the merits of the rejection and assess further action in continuing prosecution of the claims. In this regard, Applicant requests clarification in a non-final communication and an opportunity to respond, should the '859 reference be cited in connection with any new rejection of the pending claims.

Applicant further traverses the Section 102 rejection, as applicable to the limitations in claims 1-6 because the cited '859 reference fails to disclose elements that completely correspond to all of the claimed limitations. For instance, the cited portions of the '859 reference fail to contemplate the use of a difference between ionization signals under full and partial load conditions at different time periods for determining a condition of operation of a burner. Rather, the '859 reference appears limited in application to gas burner control using a comparison between an ionization electrode output and a setpoint for calibration purposes. *See, e.g.*, column 3, line 47 through column 4, line 4 of the '859 reference. In the '859 reference, comparisons between different time periods are limited to comparisons between calibration values (*see, e.g.*, column 6, lines 33-39) and make no mention of any comparison of differences between full-load and partial-load operation of a burner. Applicant has further reviewed the '859 reference and cannot ascertain any teaching or suggestion of limitations directed to the comparison of full and partial load ionization signals to determine a

difference therebetween. Furthermore, Applicant cannot ascertain any teaching or suggestion of limitations directed to comparing a full and partial load difference for different time intervals for use in determining a condition of operation of a burner or sensor. In this regard, Applicant believes that the subject matter of claims 1-6, as well as of corresponding limitations in the new claims, is allowable over the '859 reference.

Notwithstanding the above, claims 1-6 have been canceled to facilitate prosecution of the application, in view of the objections as discussed above. New claims 7 – 25 are believed to be patentable over the cited prior art for the reasons set forth above with respect to claims 1-6 and the '859 reference.

Applicant respectfully submits that the pending claims are patentable over the cited prior art of record, and that the application is in condition for allowance. If the Examiner believes it necessary or otherwise helpful, the undersigned attorney of record may be contacted at (651) 686-6633 (x103) to discuss any issues related to this case.

Respectfully submitted,

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